

**NOT FOR PUBLICATION**

**SEP 14 2006**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

STEPHEN FLOYD ULLRICH,

Plaintiff - Appellant,

v.

MICHELLE MENELY; et al.,

Defendants - Appellees.

No. 04-36118

D.C. No. CV-04-00612-MJP

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Western District of Washington  
Marsha J. Pechman, District Judge, Presiding

Submitted September 11, 2006 <sup>\*\*</sup>

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

Idaho state prisoner Stephen Floyd Ullrich appeals pro se from the district court's order dismissing for failure to state a claim pursuant to 28 U.S.C.

§ 1915(e)(2)(B)(ii) his civil rights action against his former attorney. We have

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction under 28 U.S.C. § 1291. Reviewing de novo, *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order), we affirm.

Ullrich failed to state a constitutional or federal claim against his former attorney because he failed to allege acts showing that the defendant was acting under color of state law. *See Miranda v. Clark County*, 319 F.3d 465, 468 (9th Cir. 2003). To the extent Ullrich may allege legal malpractice, this is a state-law claim for which “there exists no independent basis of federal jurisdiction.” *See Aragon v. Federated Dept. Stores, Inc.*, 750 F.2d 1447, 1457-58 (9th Cir. 1985). Accordingly, the district court properly dismissed Ullrich’s action for failure to state a cognizable federal claim.

Ullrich’s remaining contentions are unpersuasive.

**AFFIRMED.**